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E.O. 12958: N/A

TAGS: [ETTC](#) [KTFN](#) [EFIN](#) [UNSC](#) [PREL](#) [PGOV](#)

SUBJECT: 1267 COMMITTEE PROCEDURAL PROTECTIONS AND FAIRNESS

REF: A. STATE 65363  
[B](#). PARIS 3382  
[C](#). USUN 917  
[D](#). MOSCOW 4497  
[E](#). LONDON 3046  
[F](#). BEIJING 7918  
[G](#). USUN 1078

[1](#)1. (U) This is an Action Request. Please see Paragraph 7.

[1](#)2. (SBU) For the past few weeks, USUN and the French Mission have been working quietly on bridging our differences in the "due process" debate currently underway in the UN Security Council's 1267 (al-Qaida/Taliban) Sanctions Committee (REF A). During a July 20 meeting, the French Mission Legal Adviser gave USUN a compromise proposal (paragraph 8).

[1](#)3. (SBU) The compromise proposal creates a focal point mechanism (REF B), but does not/not create direct access to the sanctions committee for a listed individual. Instead, the focal point, which would reside within the UN Secretariat Sanctions Branch, would administer the proposals originally set out in the U.S. paper on procedural protections and fairness in the 1267 Committee. The focal point would receive de-listing petitions from sanctioned individuals, but then instead of sending those petitions to the sanctions committee, the focal point would send the petitions to the countries of citizenship/residence, the designating state, and possibly any state with frozen assets belonging to the sanctioned individual. (Comment: The French have not yet agreed to have the focal point send the petitions to any state with blocked assets belonging to the sanctioned individual. Notably, they have expressed concern that Switzerland - one of the key European critics of the UN sanctions committees' current de-listing procedures - might oppose such a proposal. France wants to be sure that Switzerland and other European critics can accept any new procedures the 1267 Committee and other committees adopt. End comment.)

[1](#)4. (SBU) If none of those states responded within a reasonable amount of time (the French prefer only one month, but USUN stressed the time frame would need to be longer), the focal point would then send the petition to all members of the Security Council and ask if any member wished to forward the petition to the sanctions committee for consideration. Members of the Committee would have one month (time frame is still under discussion) in which to decide whether to forward the petition. If a member decided to forward the petition, the Committee would then need to act upon it, and then the focal point would advise the petitioner of the Committee's decision. If not, the focal point would inform the petitioner that the Committee's process of consideration had ended and he or she remained on the list. Thus, the focal point would administer the U.S. proposal of

"expanding the circle" of States that could consider a de-listing petition.

15. (SBU) The proposed focal point would function in parallel to the current de-listing procedures, which allow a sanctioned individual to petition directly his/her State of citizenship or residence. The focal point would be given no authority to substantively review the de-listing petitions. Instead, it would perform only administrative functions. All of the substantive review would remain within the purview of Member States.

16. (SBU) The proposed compromise formulation would apply both to the 1267 Committee and to the other UN sanctions committees. The focal point would be established either through a Security Council resolution or through a letter from the President of the Security Council to the Secretary-General. (NOTE: The Security Council could

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establish the focal point for a limited period, for example, one year, and then review its effectiveness at the end of that period in deciding whether to make it permanent. END NOTE.)

COMMENT AND ACTION REQUEST

17. (SBU) USUN believes the French compromise proposal achieves the main USG objectives and protects our interests. The compromise represents the best opportunity for reaching consensus in the 1267 Committee because most other Committee members have been looking to the U.S. and France to agree a way forward. Accepting the proposed compromise would defuse a debate that is undermining U.S. interests in effective enforcement and expansion of the 1267 sanctions regime and other UN sanctions. USUN recommends that the Department

instruct USUN to support this proposal.

18. (SBU) Begin Text:

Respective Tasks of the Focal Point and of the Sanctions Committees

The SC would request the SG to establish, within the Secretariat (Sanctions Branch), a focal point to receive

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delisting requests. Individuals seeking to submit a request for de-listing could do so either through the focal point process outlined below or, if permitted or required by that State, through their State of residence or citizenship.

The tasks the focal point would perform would, sequentially, be the following:

- 1. receive requests of delisting from a petitioner (individual(s), groups, undertakings, and/or entities on the sanctions committees lists)
- 2. verify if the request is new or is a repeated request
- 3. if it is a repeated request and if it does not contain any new justification, return it to the petitioner
- 4. acknowledge receipt of the request to the petitioner and inform the petitioner on the general procedure for processing that request
- 5. forward the request, for information and comments (approve, disapprove, neutral, no comment, other()), to the designating government and to the government of citizenship/residence, (and to the government of the State or States in which the assets are blocked),
- 6. after a short period of time ((three month))

-- (a) forward the request to the Chairman of the sanctions committee, accompanied by the comments made by the designating government or the government of citizenship/residence, (or the government of the State or States in which the petitioner's assets are blocked)

-- (b) or, if none of the above States has made comments, forward the request to all members of the committee, asking them if they wish to forward the petition, along with an adequate justification, within a set timeframe ((one month)) (one endorsement would be sufficient)

--7. inform the petitioner:

-- (a) of the decision of the sanctions committee to delist him/her;

-- (b) or, that the process of consideration of the petition within the committee has been completed and that he/she remains on the list of the committee.

The role of the sanctions committee would be the following:

--1. Review the requests forwarded by the focal point:

-- (a) together with the comments made by the designating government and/or the government of citizenship/residence;

-- (b) or with the endorsement of a member State of the committee

--2. decide to accept the request or refuse it or that it is not in a position to accept it at this stage;

--3. request the focal point to inform the petitioner of its decision.

End text.

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